

1979 WL 43525 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 16, 1979

*1 Honorable Grady L. Patterson, Jr.
Chairman
Board of Financial Institutions
221 Wade Hampton Office Building
Columbia, South Carolina 29211

Dear Mr. Patterson:

Your request for the opinion of this Office regarding the necessity for an adversary hearing in the approval of a location for a branch bank has been forwarded to me for a reply. Perpetual Building and Loan Association of Anderson has submitted an application for authority to establish a branch office in Greenwood. Various local banks in Greenwood have requested that an open adversary hearing be held in order to contest the application.

South Carolina Code of Laws, 1976, Section 34-1-70 gives to the Board of Bank Control the authority to license an applicant for the establishment of a branch bank, following an investigation to determine whether or not the applicant has complied with all of the provisions of the law, whether it is qualified to operate such a bank, and whether the establishment of such a bank would serve the public interest, taking into consideration local circumstances and conditions at the place where such a branch bank proposes to do business. The South Carolina Supreme Court held in [First Federal Savings and Loan Association v. Board of Bank Control](#), 263 S.C. 59, 207 S.E.2d 801 (1974), that neither Section 34-1-70 nor the due process clause requires that an adversary hearing be held in approving such an application.

South Carolina Code of Laws, 1976, as amended, Section 1-23-320, defines a contested case as a licensing proceeding in which the legal right, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing. Here, as has been stated, the law does not require that such an opportunity be given.

Therefore, it is the opinion of this Office that the State Board of Bank Control need not grant an adversary hearing to competitors who seek to challenge the approval of an application to establish a branch bank.

I hope this has been of some assistance to you. If you have any further questions, please do not hesitate to contact me.
Very truly yours,

Katherine W. Hill
Assistant Attorney General

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